

UNITED STATES OF AMERICA
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

HONORABLE SEAN F. COX

James Lee Crews D-2,

CR. CASE NO. 08-20482

Defendant.

ORDER

For the reasons set forth on the record on May 29, 2009, **IT IS ORDERED** that:

- 1) the parties' joint Motion to Withdraw from Rule 11 Plea Agreement is
GRANTED;
- 2) Defendant's Motion to Adjourn Sentencing as to Count III is **GRANTED;**
Sentencing is reset for **July 31, 2009 at 9:30 a.m., in Flint.**
- 3) Defendant's Motion for a Continuance and New Trial Date of **August 25, 2009** is
GRANTED. IT IS ORDERED that the time between May 29, 2009, and August 25, 2009 is excludable pursuant to the provisions of the Speedy Trial Act, 18 U.S.C. § 3161, because considering the factors listed in section (h)(7)(B) and the reasons given by counsel on the record, this Court finds that the ends of justice served by this delay outweigh the best interest of the defendant and the public in a speedy trial.

IT IS FURTHER ORDERED that the parties shall each file briefs no later than June 26, 2009, addressing the following issues:

- A. Whether *United States v. Higgins*, 557 F.3d 381 (6th Cir. 2009) applies to this

case;

- B. Whether the Government is entitled to a hearing to establish that the substance at issue in Counts III and/or IV of the Indictment was crack; and
- C. Whether the Government is entitled to file a superceding Indictment as to Count IV after Defendant indicated that he was prepared to plead guilty to that count as originally charged.

IT IS FURTHER ORDERED that the Court will hold a Status Conference / Hearing on these issue on **July 31, 2009 at 9:30 a.m. in Flint.**

IT IS SO ORDERED.

S/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: June 1, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record on June 1, 2009, by electronic and/or ordinary mail.

S/Jennifer Hernandez
Case Manager